



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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May 3, 2004

Ref: 8EPR-EP

Steven M. Pirner, Secretary
Department of Environment & Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

Re: Clean Water Act Section 303(d)
Total Maximum Daily Load (TMDL) Waterbody
List

Dear Mr. Pirner:

Thank you for your submittal of South Dakota's 2004 Integrated Report for Surface Water Quality Assessment dated March 30, 2004. EPA has conducted a complete review of the Clean Water Act Section 303(d) waterbody list and supporting documentation and information. Based on this review, EPA has determined that South Dakota's 2004 list of water quality limited segments (WQLSs) still requiring TMDLs meets the requirements of Section 303(d) of the Clean Water Act (CWA) and EPA's implementing regulations. Therefore, by this order, EPA hereby APPROVES South Dakota's 2004 Section 303(d) list. Please see the enclosure for a description of the statutory and regulatory requirements and a summary of EPA's review of South Dakota's compliance with each requirement.

EPA's approval of South Dakota's 2004 Section 303(d) list extends to all waterbodies in categories 5 and 6a of the list with the exception of those waters that are within Indian Country, as defined in 18 U.S.C. Section 1151. EPA is taking no action to approve or disapprove the State's list with respect to those waters at this time. EPA, or eligible Indian Tribes, as appropriate, will retain responsibilities under Section 303(d) for those waters.

The public participation process sponsored by South Dakota DENR included publishing display ads in newspapers across the state requesting public input in developing the draft list and requesting water quality data, official public notices on the list availability, use of the South Dakota DENR website, and a mailing to many entities asking for both comments and additional data or information on waters. We commend the State for its thorough public participation process.

We wish to inform you that our office has received concurrence from the U.S. Fish and Wildlife Service regarding our biological evaluations of the approval of the State's year 2004 Section 303(d) waterbody list. Our biological evaluation that addressed our approval was submitted to the Service in accordance with Section 7 of the Endangered Species Act. In our evaluation, we assessed the effects of our approval on the threatened, endangered, proposed, and candidate species throughout the State. Our conclusion was that our approval of the State's list would not likely have an adverse effect on the species of concern. Any effect of the list approval was seen as either insignificant or beneficial to the species.

Under current regulations, the next Section 303(d) list is required to be submitted on April 1, 2006. We suggest you stay abreast of EPA TMDL guidance development in the months to come in the event of any changes to that date. Although current regulations require lists to be submitted every 2 years, in April of even years, states may submit Section 303(d) lists more frequently as they deem necessary. All additions, deletions and modifications to the list will require EPA approval.

Again, thank you for the efforts related to the good job of developing the Section 303(d) TMDL waterbody list for the 2004-2006 biennium. If you have questions on any of the above information, feel free to give me, or Vern Berry (303-312-6234) of my staff, a call.

Sincerely,



Max H. Dodson
Assistant Regional Administrator
Ecosystems Protection and
Remediation

Enclosure

Review of South Dakota's 2004 Section 303(d) Waterbody List

*Attachment to May 3, 2004 letter from Max H. Dodson, Assistant Regional Administrator,
Office of Ecosystems Protection and Remediation, US EPA, Region VIII to Steven M. Pirner, Secretary
South Dakota Department of Environment and Natural Resources*

Date of Transmittal Letter from State: March 30, 2004
Date of Receipt by EPA: March 31, 2004

I. Introduction

The purpose of this review document is to describe the rationale for EPA's approval of South Dakota's 2004 Section 303(d) waterbody list. The following sections identify those key elements to be included in the list submittal based on the Clean Water Act (CWA) and EPA regulations. See 40 CFR §130.7. In July 2003, EPA issued guidance for integrating the development and submission of 2004 Section 305(b) water quality reports and Section 303(d) lists of impaired waters. See EPA's Guidance for 2004 Assessment, Listing and Reporting Requirements Pursuant to Section 303(d) and 305(b) of the Clean Water Act, July 21, 2003. This guidance recommends that states develop an integrated report of the quality of their waters by placing all waters into one of five assessment categories. By following this guidance, category 5 of the integrated report is the State's Section 303(d) list. South Dakota DENR created a category 6a which includes the list of waters with point source permits that are also part of the State's Section 303(d) list. EPA's action in review and approval of this document is only on categories 5 and 6a that comprise the Section 303(d) list within the integrated report.

EPA reviewed the methodology used by the State in developing the Section 303(d) list and the State's description of the data and information it considered. EPA's review of South Dakota's 2004 Section 303(d) list is based on EPA's analysis of whether the State reasonably considered existing and readily available water quality-related data and information and reasonably identified waters required to be listed.

South Dakota's 2004 list is considered an update of the State's 2002 list, and as such, the Section 303(d) list EPA is approving today is comprised of 164 waterbodies, compared with 167 waterbodies included on the 2002 list. States may add and take waters off their Section 303(d) lists based on several factors. South Dakota delisted 50 waterbodies from its year 2002 list and added 47 waters in 2004. Of the 47 waters added in 2004, 23 are new waters that have not been listed before, and 24 are smaller re-segmented stream segments that were listed in 2002 as 8 streams (i.e., 8 listed stream segments in 2002 were re-segmented into 32 segments in 2004. An increase of 24 segments for this subset).

II. Statutory and Regulatory Background

A. Identification of Water Quality Limited Segments (WQLSs) for Inclusion on Section 303(d) List

Section 303(d)(1) of the CWA directs states to identify those waters within its jurisdiction for which effluent limitations required by Section 301(b)(1)(A) and (B) are not stringent enough to implement any applicable water quality standard, and to establish a priority ranking for such waters, taking into account the severity of the pollution and the uses to be made of such waters. The Section 303(d) listing requirement applies to waters impaired by point and/or nonpoint sources, pursuant to EPA's long-standing interpretation of Section 303(d).

EPA regulations provide that states do not need to list waters where the following controls are adequate to implement applicable standards: (1) technology-based effluent limitations required by the CWA, (2) more stringent effluent limitations required by state or local authority, and (3) other pollution control requirements required by state, local, or federal authority. (See 40CFR §130.7(b)(1))

B. Consideration of Existing and Readily Available Water Quality-Related Data and Information

In developing Section 303(d) lists, states are required to assemble and evaluate all existing and readily available water quality-related data and information, including, at a minimum, consideration of existing and readily available data and information about the following categories of waters: (1) waters identified as partially meeting or not meeting designated uses, or as threatened, in the State's most recent Section 305(b) report; (2) waters for which dilution calculations or predictive modeling indicate nonattainment of applicable standards; (3) waters for which water quality problems have been reported by governmental agencies, members of the public, or academic institutions; and (4) waters identified as impaired or threatened in any Section 319 nonpoint assessment submitted to EPA. (See 40 CFR §130.7(b)(5)) In addition to these minimum categories, states are required to consider any other data and information that is existing and readily available. EPA's 1991 Guidance for Water Quality-Based Decisions describes categories of water quality-related data and information that may be existing and readily available. (See Guidance for Water Quality-Based Decisions: The TMDL Process, EPA Office of Water, April 1991). While states are required to evaluate all existing and readily available water quality-related data and information, states may decide to rely or not rely on particular data or information in determining whether to list particular waters.

In addition to requiring states to assemble and evaluate all existing and readily available water quality-related data and information, EPA regulations at 40 CFR §130.7(b)(6) require states to include, as part of their submissions to EPA, documentation to support decisions to rely or not rely on particular data and information and decisions to list or not list waters. Such documentation needs to include, at a minimum, the following information: (1) a description of

the methodology used to develop the list; (2) a description of the data and information used to identify waters; and (3) any other reasonable information requested by the Region.

C. Priority Ranking

EPA regulations also codify and interpret the requirement in Section 303(d)(1)(A) of the CWA that states establish a priority ranking for listed waters. The regulations at 40 CFR §130.7(b)(4) require states to prioritize waters on their Section 303(d) lists for TMDL development, and also to identify those WQLSs targeted for TMDL development in the next two years. In prioritizing and targeting waters, states must, at a minimum, take into account the severity of the pollution and the uses to be made of such waters. (See Section 303(d)(1)(A)) As long as these factors are taken into account, the CWA provides that states establish priorities. States may consider other factors relevant to prioritizing waters for TMDL development, including immediate programmatic needs such as wasteload allocations for permits, vulnerability of particular waters as aquatic habitats, recreational, economic, and aesthetic importance of particular waters, degree of public interest and support, and state or national policies and priorities. (See 57 FR 33040, 33045 (July 24, 1992), and EPA's 1991 Guidance.)

III. Analysis of South Dakota's Submission

A. Background

EPA has reviewed the State's submission, and has concluded that the State developed its Section 303(d) list in compliance with Section 303(d) of the CWA and 40 CFR §130.7. EPA's review is based on its analysis of whether the State reasonably considered existing and readily available water quality-related data and information and reasonably identified waters required to be listed. In July 2003, EPA issued guidance for integrating the development and submission of 2004 Section 305(b) water quality reports and Section 303(d) lists of impaired waters. See EPA's Guidance for 2004 Assessment, Listing and Reporting Requirements Pursuant to Section 303(d) and 305(b) of the Clean Water Act, July 21, 2003. This guidance recommends that states develop an integrated report of the quality of their waters by placing all waters into one of five assessment categories. By following this guidance, category 5 of the integrated report is the State's Section 303(d) list. South Dakota DENR created a category 6a which includes the list of waters with point source permits that are also part of the State's Section 303(d) list. EPA's action in review and approval of this document is only on categories 5 and 6a that comprise the Section 303(d) list within the integrated report.

The State's list was submitted to EPA Region VIII enclosed with correspondence dated March 30, 2004 from Steven M. Pirner, Secretary of the South Dakota DENR, in a document entitled "*The 2004 South Dakota Integrated Report for Surface Water Quality Assessment.*"

The year 2004 integrated report submitted to the EPA, from the South Dakota DENR consisted of the following portions that are necessary for the Section 303(d) waterbody list:

- **Waterbodies and corresponding pollutants that make up the State's Section 303(d) list** (See waters/pollutants identified in Tables 17-30, EPA categories 5 and 6a, *River Basin Assessments*, beginning on page 37)
- **Prioritization of waterbodies for TMDL development** (See explanation on pages 15-16, and priority codes 1, 2, or 3 linked to waters in EPA categories 5 and 6 of Tables 17-30)
- **Identification of waters targeted for TMDL development over the next biennium** (See the priority 1 waters in the last column of Tables 17-30, pages 42 through 160)

EPA's approval action of South Dakota's year 2004 Section 303(d) list extends only to the items listed immediately above, *i.e.*, the waterbodies and corresponding pollutants listed above, the prioritization of waterbodies for TMDL development, and the identification of waters targeted for TMDLs over the 2004-2006 biennium.

In addition to the Section 303(d) list requirements described above, South Dakota also submitted the following to EPA, which EPA neither approved nor disapproved:

- an introduction and executive summary (pages 1-5),
- a description of the data and information used to prepare the list (pages 1-2, 20),
- a description of DENR's surface water quality monitoring program (pages 6-8),
- a summary of South Dakota water quality standards (Table 2 & 3, pages 9-13),
- a description of the methodology the State used for developing the list (pages 20-24),
- statewide surface water quality summary (pages 25-36),
- a listing of waterbodies that are not part of the Section 303(d) list (Tables 17-30, EPA categories 1-4, 6b),
- a description of the wetlands program in South Dakota (pages 163-167),
- a description of public health and aquatic life concerns (pages 168-179),
- a description of the point and nonpoint source pollution control programs (pages 180-186),
- a description of the public participation process and a summary of comments received by the State on the Section 303(d) list as well as the State's responses to comments (pages 187 and 208-219),
- an itemization of the waterbodies delisted from the 2002 Section 303(d) list (pages 192-194), and
- the surface water quality monitoring schedule and sampling site description (pages 195-206).

After reviewing South Dakota's year 2004 Section 303(d) list, EPA has concluded that the waters added to the list were based on data and information consistent with the State's listing methodology. Further, EPA has concluded that waters taken off the list were done so because TMDLs were developed or the State correctly determined that TMDLs were no longer needed.

The 2004 Section 303(d) waters are found in the following tables in the State's submittal:

- Tables 17-30 - Listing of TMDL Waters by Basin, EPA categories 5 and 6a.

These tables include the following information for each waterbody: the waterbody name, the waterbody location, the map identifier, data source (i.e., listing "basis"), beneficial use(s), use support, cause, source(s), EPA category, whether or not it is on the Section 303(d) list, and the priority ranking.

South Dakota properly listed waters with nonpoint sources causing or expected to cause impairment, consistent with Section 303(d) and EPA guidance. Section 303(d) lists are to include all WQLSs still needing TMDLs, regardless of whether the source of the impairment is a point and/or nonpoint source. EPA's long-standing interpretation is that Section 303(d) applies to waters impacted by point and/or nonpoint sources. This interpretation has been described in EPA guidance. (See EPA's April 1991 Guidance and National Clarifying Guidance for 1998 Section 303(d) Lists, Aug. 27, 1997). In *Pronsolino v. Marcus*, the District Court for the Northern District of California held that section 303(d) of the CWA authorizes EPA to identify and establish TMDLs for waters impaired by nonpoint sources. *Pronsolino et al. v. Marcus et al.*, 91 F.Supp.2d 1337, 1347 (N.D.Ca. 2000). In addition, this interpretation of Section 303(d) is described in detail in a May 23, 1997, memorandum from Geoffrey Grubbs, Director of the Assessment and Watershed Protection Division, EPA Office of Water, to the FACA Workgroup on Section 303(d) Listing Criteria¹. (See Memorandum from Geoffrey H. Grubbs, Director, Assessment and Watershed Protection Division, to FACA Workgroup on Section 303(d) Listing Criteria, "Nonpoint Sources and Section 303(d) Listing Requirements", May 23, 1997). (See also Memorandum from Robert Perciasepe, Assistant Administrator, Office of Water, to Regional Administrators and Regional Water Division Directors, "New Policies for Establishing and Implementing TMDLs," August 8, 1997).

B. Identification of Waters and Consideration of Existing and Readily Available Water Quality-Related Data and Information

EPA has reviewed South Dakota's description of the data and information it considered for identifying waters on the Section 303(d) list. EPA concludes that the State properly assembled and evaluated all existing and readily available data and information, including data and information relating to the categories of waters specified in 40 CFR §130.7(b)(5). In particular, the State relied on information from the year 2004 Section 305(b) water quality assessments, assessments performed under the 319 non-point source program, as well as data and information obtained through an extensive process to solicit information from state, federal and citizen sources. The State's evaluation of data and information in each of these categories is described below.

¹ EPA convened a Federal Advisory Committee Act (FACA) Committee in November 1996. The report of this FACA committee is found in EPA document EPA 100-R-98-006 (July 1998).

- *Waters identified by the state in its most recent section 305(b) report as "partially meeting" or "not meeting" designated uses or as "threatened" (§130.7(b)(5)(i)).*

EPA's 2004 integrated report guidance suggests that states combine their previously separate Sections 305(b) and 303(d) reports. South Dakota produced a 2004 integrated report consistent with EPA's guidance, therefore the regulatory reference to the use of information from the Section 305(b) report is no longer relevant now that the two reports are combined into one. However, South Dakota's 2004 integrated report does include waters which would previously have been included in the Section 305(b) report. Further, the 2004 integrated report guidance no longer uses the terminology "partially meeting, not meeting or threatened." EPA's integrated report guidance suggests that states place waters in categories which represent the varying levels of water quality standards attainment. These levels range from category 1, where all of the water's designated uses are met, to category 5, where a pollutant impairs a water and a TMDL is required. South Dakota added a category 6 for surface water discharge permits. South Dakota made the category determinations based on consideration of all existing and readily available data and information consistent with the State's assessment methodology and EPA's guidance.

EPA concludes that South Dakota made listing decisions consistent with results from the Section 305(b) assessment, utilizing all existing and readily available data and information, in development of its 2004 Section 303(d) waterbody list.

- *Waters for which dilution calculations or predictive models indicate non-attainment of applicable water quality standards (§130.7(b)(5)(ii)).*

South Dakota assembled and evaluated information from past and anticipated dilution calculations and predictive modeling. For the sake of completeness, South Dakota included on the 2004 Section 303(d) list, all waters that receive discharges from NPDES permits which have or may need wasteload allocations for one or more pollutants. These waters have been assigned to category 6 which is further sub-categorized into categories 6a and 6b. Category 6a waters are defined as not currently impaired, but the water is required to have a new or revised point source TMDL in order to maintain water quality standards, and category 6b waters are defined as not currently impaired and an existing TMDL has already been approved by EPA. The category 6a waters will need a new or updated TMDL, therefore they have been included on the 2004 Section 303(d) list. The listing of these waters is supported primarily by the past and anticipated results of dilution calculations and predictive modeling. The waterbodies in this category are included on Tables 17 through 30 along with the TMDL parameters of concern. Waterbodies on this section of the Section 303(d) list most likely do not have evidence (e.g., ambient monitoring data) of in-stream impairment, but are appropriately included on the Section 303(d) list because of the anticipated need for a new or updated TMDL.

EPA concludes that South Dakota properly considered waters for which dilution calculations or predictive models indicate nonattainment of applicable water quality standards in development of its 2004 Section 303(d) waterbody list.

- *Waters for which water quality problems have been reported by local, state, or federal agencies; members of the public; or academic institutions (§130.7(b)(5)(iii)).*

The State widely solicited data and information while preparing the year 2004 Section 303(d) list. The State did not receive any comments on specific waterbodies that should be included on the list from organizations and citizens solicited during the public participation period. However, DENR acquired and considered data collected by the U.S. Geological Survey. Data for all waters was evaluated using the State's integrated report methodology and assigned to one of the assessment categories 1-6. In some cases there was not enough data to determine whether some or all of the designated uses were met and were assigned to categories 2 or 3. See the EPA category assignments in Tables 17-30.

EPA concludes that South Dakota properly considered waters for which water quality problems have been reported by local, state, or federal agencies, members of the public, or academic institutions in development of its 2004 Section 303(d) waterbody list.

- *Waters identified by the State as impaired or threatened in a nonpoint assessment submitted to EPA under section 319 of the CWA or in any updates of the assessment (§130.7(b)(5)(iv))*

The State has been involved in watershed assessment and implementation activities since the late 1970's. The State's 2004 Section 303(d) list includes all waters that have data to support nonpoint source pollution impairment. The State's methods of prioritizing 319 activities has changed. South Dakota's listing approach and methodologies direct 319 activities and resources to the highest priorities. Watershed assessments are often conducted for waterbodies that are already listed in order to collect current data to support TMDL development.

EPA concludes that South Dakota properly considered waters identified by the State as impaired or threatened in a nonpoint assessment submitted to EPA under section 319 of the CWA and any updates of the assessment in development of its 2004 Section 303(d) waterbody list.

C. Delisting of Waters

According to EPA regulations, each state must demonstrate good cause for not including a water or waters on the list. See 40 CFR §130.7(b)(6)(iv). The State identified the criteria for

removing waters from the 2002 list on pages 18 and 19, and a table of delisted waters in Appendix A. This information includes the rationale for not including the waters on the 2004 list. These reasons include:

- A total maximum daily load analysis has been completed and approved by EPA for all pollutants of concern;
- New monitoring data indicates that water quality standards are being met;
- New modeling information indicates no TMDL is required in order to maintain water quality standards;
- A waterbody was placed on the list due to error in assessment or because a waterbody was listed incorrectly in place of another waterbody or any other error not based on a water quality assessment;
- Additional state effluent controls address water quality problems;
- Reservoir has been breached and is no longer a viable waterbody; and
- Data assessment methodologies have been modified.

A full accounting of waters delisted from the 2002 list is provided in Appendix A (pages 192-194). The table in Appendix A includes a column that provides the good cause reason for delisting each of the waters. For all the waters that have been delisted in 2004, the decisions to take the waters off the list are based on: 1) a TMDL was completed and approved by EPA; 2) new data or information indicate full support of designated uses; or 3) the NPDES permit was changed to “no discharge” (i.e., the source was removed).

EPA acknowledges that states may re-evaluate the waters on their Section 303(d) lists. In a 1997 memorandum, EPA stated that “. . . Regions and states should keep in mind that waterbodies may be added or subtracted over time as new lists are developed.”² Accordingly, in the July 21, 2003 guidance for preparing the 2004 Integrated Report, EPA identified several conditions that allow states to remove previously-listed waters from Section 303(d) lists. In addition to delisting a waterbody when a TMDL has been established for it, states may delist a waterbody when:

- 1) the waterbody is meeting all applicable water quality standards or is expected to meet these standards in a reasonable time frame (*e.g.*, two years) as a result of implementation

² Page 4, August 8, 1997 memorandum from Robert Perciasepe, Assistant Administrator for Water, US EPA, regarding “New Policies for Establishing and Implementing TMDLs.”

of required pollutant controls or

2) if, upon re-examination, the original basis for listing is determined to be inaccurate.³

Further, the existing EPA regulations require states, at the request of the Regional Administrator, to demonstrate good cause for not including waterbodies on their lists. Good cause includes, but is not limited to, more recent and accurate data, more sophisticated water quality modeling, flaws in the original analysis that led to the waterbody being listed, or changes in conditions, *e.g.*, new control equipment, or elimination of discharges. See 40 CFR §130.7(b)(6)(iv).

In its review of the State's year 2004 Section 303(d) waterbody list, EPA took special care to review the methodology and resultant delistings from South Dakota's list. In its preamble to the March 31, 2000 Federal Register notice, EPA stated that:

"... EPA intends to carefully review any proposed removal of a waterbody from a Section 303(d) list to ensure there is information specific to the waterbody to support the removal. 65 FR 4921. In particular, where a waterbody was previously listed based on certain data or information, and the state removes the waterbody without developing or obtaining any new information, EPA will carefully evaluate the state's reevaluation of the available information, and would not approve such removals unless the state's submission describes in detail why it is appropriate under the current regulations to remove each affected waterbody. EPA has the authority to disapprove the list if EPA identifies existing and readily available information that was existing and readily available at the time the state submitted the list and that data shows that a waterbody does not attain water quality standards." 65 FR 17168.

Having reviewed South Dakota's submission and supporting documentation, EPA has concluded that South Dakota has acted reasonably and within the discretion that current EPA regulations allow in delisting waterbodies.

D. Priority Ranking

EPA regulations at 40 CFR §130.7(b)(4) require states to prioritize waters on their Section 303(d) lists for TMDL development, and also to identify those WQLSs targeted for

³July 21, 2003 memorandum from Diane Regas, Director, Office Wetlands, Oceans, and Watershed, Office of Water, EPA Headquarters, to Water Division Directors, Regions I - X, regarding "Guidance for 2004 Assessment, Listing and Reporting Requirements Pursuant to Sections 303(d) and 305(b) of the Clean Water Act."

TMDL development over the next biennium 2004-2006. In prioritizing and targeting waters, states must, at a minimum, take into account the severity of the pollution and the uses to be made of such waters. See CWA Section 303(d)(1)(A). As long as these factors are taken into account, the CWA provides that states establish priorities. States may consider other factors relevant to prioritizing waters for TMDL development, including immediate programmatic needs, vulnerability of particular waters as aquatic habitats, recreational, economic, and aesthetic importance of particular waters, degree of public interest and support, and state or national policies and priorities. See 57 FR 33040, 33045 (July 24, 1992), and EPA's April 1991 guidance listed below.

The State described their priority ranking criteria for TMDL waters on pages 15-16 of the integrated report. EPA believes that this criteria is reasonable because it builds on the statutory requirements regarding prioritization criteria. It also is considered reasonable because it uses supplemental criteria that is consistent with the guidance provided by EPA. The State prioritization criteria considers three categories of priorities: Priority 1 (high) waters, Priority 2 (medium) waters and Priority 3 (low) waters. The number of waters targeted for TMDL development in each basin, during the next two years are identified in the last column of Tables 17-30, for waters assigned to categories 5 and 6a. Many of the waters that the State has identified as high priority for TMDL development are where point source discharge permits will be renewed. However, the State has also targeted many lakes and streams where TMDL development will be more complex. Some of relevant factors the State took into account were: an expiring surface water discharge permit, imminent human health problems, documented widespread local support for water quality improvement, TMDL development expected within the next two years, or four or more listing criteria are met.

EPA reviewed the State's priority ranking of listed waters for TMDL development, and concludes that the State properly took into account the severity of pollution and the uses to be made of such waters, as well as other relevant factors such as expiring surface water discharge permits, imminent human health problems, or local support for water quality improvement. In addition, EPA reviewed the State's identification of WQLSs targeted for TMDL development in the next two years, and concludes that the targeted waters are appropriate for TMDL development in this time frame.

E. References

The following list includes documents that were used directly or indirectly as a basis for EPA's review of the State's Section 303(d) waterbody list. This list is not meant to be an exhaustive list of all records reviewed, but to provide the primary documents the Region relied upon in making its decisions to approve the State's list.

40 CFR Part 130 Water Quality Planning and Management

40 CFR Part 131 Water Quality Standards

December 28, 1978 Federal Register Notice, *Total Maximum Daily Loads Under Clean Water Act*, finalizing EPA's identification of pollutants suitable for TMDL calculations, 43 Fed. Reg. 60662.

January 11, 1985 Federal Register Notice, *40 CFR Parts 35 and 130, Water Quality Planning and Management: Final Rule*, 50 Fed. Reg. 1774

April 1991, "Guidance for Water Quality-Based Decisions: The TMDL Process," EPA 440/4-91-001.

July 24, 1992 Federal Register Notice, *40 CFR Parts 122, 123, 130*, revision of regulation, 57 Fed. Reg. 33040

August 13, 1992 memorandum from Geoffrey Grubbs, Director, Assessment and Watershed Protection Division, Office of Water, EPA Headquarters, to EPA Water Quality Branch Chiefs, Regions I - X and TMDL Coordinators, Regions I - X, regarding "Supplemental Guidance on Section 303(d) Implementation."

October 30, 1992 memorandum from Geoffrey Grubbs, Director, Assessment and Watershed Protection Division, Office of Water, EPA Headquarters, to Water Quality Branch Chiefs, Regions I - X, regarding "Approval of 303(d) Lists, Promulgation Schedules/Procedures, Public Participation."

September, 1997 guidance from Office of Water, Headquarters, US EPA regarding Guidelines for Preparation of the Comprehensive State Water Quality Assessments (305(b) Reports) and Electronic Updates: Supplement, EPA-841-B-97-002B

September 12, 1997 letter from Carol L. Campbell, Director, Ecosystems Protection Program, Office of Ecosystems Protection & Remediation, US EPA, Region VIII to Steve Pirner, Director, Division of Environmental Regulation, South Dakota Department of Environment and Natural Resources regarding "Transmittal of TMDL Guidance."

February 4, 1998 letter from Max H. Dodson, Assistant Regional Administrator, Office of Ecosystems Protection and Remediation, US EPA, Region VIII to J. David Holm, Director, Water Quality Control Division, Colorado Department of Public Health and Environment and Region VIII Water Quality Directors (including Steve Pirner, Director, Division of Environmental Regulation, South Dakota Department of Environment & Natural Resources) regarding "303(d) Listing Requirements; Expiring Permits."

August 23, 1999 64 Federal Register 46012 Proposed Revisions to the Water Quality Management and Planning Regulations.

April 27, 2000 65 Federal Register 24641 EPA Review and Approval of State and Tribal Water

Quality Standards.

May 20, 2002 memorandum from Charles H. Sutfin, Director, Assessment and Watershed Protection Division, US EPA to Water Quality Branch Chiefs, TMDL Coordinators, Monitoring Coordinators, and ORC TMDL Attorneys (Regions I - X) regarding "EPA Review of 2002 Section 303(d) Lists and Guidelines for Reviewing TMDLs under Existing Regulations issued in 1992"

January 29, 2004 email from Stacy Splittstoesser (TMDL Coordinator, Surface Water Discharge Permit Team, South Dakota Department of Environmental and Natural Resources) to Bruce Zander (TMDL Coordinator, US EPA; Region VIII) announcing the availability of South Dakota's 2004 draft Integrated Report for public comment.

March 5, 2004 letter from Karen Hamilton, Chief Water Quality Unit, US EPA Region VIII, to Jim Feeney, Administrator, Watershed Protection Program, South Dakota Department of Environmental and Natural Resources regarding EPA's comments on South Dakota's 2004 draft Integrated Report.

April 12, 2004 letter from Karen Hamilton, Chief Water Quality Unit, US EPA Region VIII, to Pete Gober, Field Supervisor, US Fish and Wildlife Service, Pierre South Dakota regarding "Request for Concurrence on Section 7 (ESA) Findings, South Dakota's Year 2004 Section 303(d) Waterbody List"

March 30, 2004 letter from Steven M. Pirner, Secretary, South Dakota Department of Environment and Natural Resources to Robert E. Roberts, Regional Administrator, EPA Region VIII regarding transmittal of the final "2004 South Dakota Integrated Report for Surface Water Quality Assessment."

April 19, 2004 stamp of concurrence from Pete Gober, Field Supervisor, US Fish and Wildlife Service, Pierre South Dakota on the April 12, 2004 letter from EPA Region VIII requesting ESA concurrence on South Dakota's Year 2004 Section 303(d) Waterbody List.